

Incoming
M/043/0019

Rec'd by
e mail 4/16/2010

From: Ron Howell <ebrmgt@yahoo.com>
To: <paulbaker@utah.gov>
Date: 4/16/2010 6:16 PM
Subject: Mountain Valley Stone application
Attachments: baker.pdf

Paul

Please call me at (801) 597-0671 cell or at my office (801) 983-8000

Ed

WRIGHT/GARFF RESOURCES, L.L.C.

825 North 300 West #C160
Salt Lake City, Utah 84103
(801) 983-8000 office
(801) 328-0955 fax

April 16, 2010

Paul Baker
Division of Oil Gas and Mining
1594 W. North Temple Suite 1210
Salt Lake City, Utah 84114-5801

Dear Paul:

We have reviewed your correspondence with Mountain Valley Stone (MV) wherein you notify them that their application for a large mining permit on Lot 26 in Browns Canyon, Summit County, Utah has been suspended due to a question concerning their "right of entry". If this decision is in any way related to communication with the Hut estate, please provide Wright/Garff Resources, LLC (W/G) with copies of letters, emails, notes or other written documents evidencing the same. Please accept this response as notification to Oil Gas and Mining that (W/G) has granted MV the right of ingress and egress on Lot 26 to prospect for, mine and remove materials thereon. **Hut, the surface owner, does not have the right to grant, restrict or deny entry or the extracting and removing of material.**

This right was initially obtained by Utah Title and Abstract Company, Trustee (for the Garff's and Rogers') from Tracy Land and Livestock Company (Tracy) on April 3, 1978 wherein over 13,000 acres of land, including Lot 26, were purchased. See Exhibit "A" attached. Therein was reserved by Tracy "EXPRESSLY EXCEPTING AND RESERVING, HOWEVER, TO GRANTOR, an undivided one-half (1/2) interest in and to all coal, oil, gas and all other metallic and non-metallic minerals of every kind and character, whether similar or dissimilar to said named minerals, and whether now known or hereafter discovered, **including, but without limitation, all building stone**, sand, gravel and geothermal rights, now owned by Grantor, whether mined or extracted by surface or underground mining or extraction methods in, upon or underlying all of said real property, **together with the full right of ingress and egress, to prospect for, mine and remove the same.**" The one-half interest obtained by Garff and Rogers and the one-half interest reserved by Tracy were subsequently merged into Wright/Garff Resources, LLC. (italics added)

On April 1, 1979 John B. Hut and Angelina Hut purchased Lot 26 with the provision on the very face of the Special Warranty Deed, Exhibit "B", "LIMITED TO SURFACE RIGHTS ONLY" and on the "EXHIBIT "A" thereto, "Subject to the Covenants and Conditions a set forth in that certain Warranty Deed dated April 3rd, 1978, by and between TRACY LAND AND LVESTOCK COMPANY, Grantor, and UTAH TITLE

AND ABSTRACT COMPANY, TRUSTEE, Grantee". The surface rights were defined, by the Third District Court in a separate action concerning the neighboring Lot 38 having the same deed restrictions as Lot 26, as:

"...includes the surface soil and other materials lying on the immediate natural surface of the land, vegetation growing on the surface and the right to construct structures on the surface and to use the surface for surface uses, such as farming, ranching, residential, commercial, industrial or recreational purposes, together with the right to penetrate the surface incidentally to the exercise of surface rights (e.g. for foundations, footings, basements, water lines and sewer lines)." Exhibit C

Before the Board of Oil, Gas and Mining concerning Lot 38, W/G submitted its "PETITION IN SUPPORT OF APPLICATION FOR SMALL MINING PERMIT AND REQUEST FOR AGENCY ACTION, Cause No. S/043/030, M/043/0012" and its "MEMORANDUM IN SUPPORT" thereof. The very thrust of that petition was to establish for the Division of Oil Gas and Mining the ownership of the minerals and the right of ingress and egress to obtain the same. These rights were definitively set forth in the Board's October 5, 2007 "FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER" and further in its January 4, 2008 "ORDER DENYING PETITION FOR REHEARING AND SUPPLEMENTING FINDINGS OF FACT". The Board stated therein, in part, "...the statute and regulations confer upon the Division and Board the authority to require modifications of permits where necessary to reflect radically changed circumstances with an eye toward allowing mineral owners to access and extract their minerals". Be on notice that we have no intention to re-litigate this issue before the Board. If the application is held up any further we will ask the Board to reprimand or sanction the Department for ignoring the Board's prior ruling that clearly defined the law applicable in this matter.

Kindest regards,


Edward B. Rogers, Manager

Attachments

cc: Sean Lewis, Summit County Planning
Robert Hicken, Mountain Valley Stone, LLC
Robert Garff, Wright/Garff Manager

EXHIBIT A

at _____ M. Fee Paid \$ _____
by _____ Dep. Book _____ Page _____ Ref.: _____
Mail tax notice to _____ Address _____

WARRANTY DEED

[CORPORATE FORM]

Exhibit A

TRACY LAND AND LIVESTOCK COMPANY, a corporation
organized and existing under the laws of the State of Utah, with its principal office at
Salt Lake City, of County of Salt Lake, State of Utah,
grantor, hereby CONVEYS AND WARRANTS subject to the qualifications as
concern warranty with respect to minerals, hereinafter set forth, to

UTAH TITLE AND ABSTRACT COMPANY, TRUSTEE

of Salt Lake City, County of Salt Lake, State of Utah, granted
TEN and no/100 (\$10.00) for the sum of
and other good, valuable and adequate consideration, DOLLARS.
the following described tracts of land in Summit County and Wasatch County,
State of Utah:

(SEE EXHIBIT "A", consisting of three pages, attached hereto
and by this reference made a part hereof)

INDEXED: _____
GRANTOR: _____
GRANTEE: _____
RELEASED: _____
ABSTRACTED: _____
STAMPED: _____

Entry No. 154706 Book M. 130
RECORDED 4-5-79 at 3:00 PM Page 682-85
REQUEST of Utah Title & Abstract
FEE WAHDA Y. SPRINGS, SUMMIT CO. RECORDER
\$ 39.00 By Sandra J. Spriggs
INDEXED ABSTRACT

The officers who sign this deed hereby certify that this deed and the transfer represented
thereby was duly authorized under a resolution duly adopted by the board of directors of the
grantor at a lawful meeting duly held and attended by a quorum.

In witness whereof, the grantor has caused its corporate name and seal to be hereunto affixed
by its duly authorized officers this 3rd day of April, A. D. 1978.

Attest: _____
R. H. Keddington, Secretary.

[CORPORATE SEAL]

TRACY LAND AND LIVESTOCK Company.

By _____
Irma W. Wright President.

STATE OF UTAH,

County of Salt Lake

On the 3rd day of April, A. D. 1978,
personally appeared before me Irma W. Wright, and R. H. Keddington,
who being by me duly sworn did say, each for himself, that he, the said Irma W. Wright
is the president, and he, the said R. H. Keddington is the secretary
of Tracy Land and Livestock Company, and that the within and foregoing
instrument was signed in behalf of said corporation by authority of a resolution of its board of
directors and said Irma W. Wright and R. H. Keddington
each duly acknowledged to me that said corporation executed the same and that the seal affixed
is the seal of said corporation.

My commission expires _____

My residence is Salt Lake City, Utah

BLANK NO. 1010

NOTAR

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NOTAR

NOTAR

BOOK 130 PAGE 682

EXHIBIT "A" TO WARRANTY DEED DATED
APRIL 3, 1978, BETWEEN TRACY LAND AND
LIVESTOCK COMPANY, AS GRANTOR, AND UTAH TITLE AND ABSTRACT
COMPANY, TRUSTEE, AS GRANTEEES

REAL PROPERTY

Township 1 South Range 5 East, Salt Lake Base and Meridian:

- Section 15: S1/2; NW1/4; SW1/4NE1/4 (less 9.15 acres in State Road)
ALSO beginning at the Southwest corner of the NW1/4NE1/4 of said section 15; thence North 7.2 chains; thence South 47°21' East 10.8 chains; thence West 7.56 chains, more or less, to the place of beginning.
ALSO beginning 4.7 chains West of the East Quarter Section corner of said Section 15; thence West 15.3 chains; thence North 9.5 chains; thence South 58°10' East 18.02 chains, more or less, to the place of beginning.
(Containing 520.93 acres, more or less)
- Section 16: All (less 5.69 acres in State Road)
(Containing 634.31 acres, more or less)
- Section 17: All (Containing 660.77 acres, more or less)
- Section 18: All (Containing 639.84 acres, more or less)
- Section 19: All (Containing 640.56 acres, more or less)
- Section 20: W1/2; W1/2NE1/4; S1/2SE1/4 (less 7.41 acres in State Road)
(Containing 472.59 acres, more or less)
- Section 21: E1/2; E1/2NW1/4; NW1/4NW1/4; E1/2SW1/4; SW1/4SW1/4 (less 8.29 acres in State Road)
(Containing 564.15 acres, more or less)
- Section 22: SW1/4SE1/4; NE1/4SE1/4
(Containing 80 acres, more or less)
- Section 23: Beginning at the Northwest corner of said Section 23; thence South 128 rods; thence East 80 rods; thence North 128 rods; thence West 80 rods, more or less, to the place of beginning.
(Containing 64 acres, more or less)
- Section 26: North 30 acres of SW1/4NW1/4
(Containing 30 acres, more or less)
- Section 29: All (Containing 640 acres, more or less)
- Section 30: Lot 4; SE1/4SW1/4; S1/2SE1/4; NE1/4SE1/4; NW1/4SE1/4; SE1/4NW1/4; NE1/4SW1/4 (less 7.14 acres in State Road)
(Containing 313.36 acres, more or less)
- Section 31: All (less 15.94 acres in State Road)
(Containing 625.66 acres, more or less)
- Section 32: All (Containing 640 acres, more or less)
- Section 33: All (Containing 666.08 acres, more or less)
- Section 34: W1/2 (Containing 320 acres, more or less)
- Section 35: W1/2 (Containing 320 acres, more or less)

BOOK 133 PAGE 682

EXHIBIT "A" TO WARRANTY DEED DATED APRIL 3, 1978,
BETWEEN TRACY LAND AND LIVESTOCK COMPANY, AS
GRANTOR AND UTAH TITLE AND ABSTRACT
COMPANY, TRUSTEE AS GRANTEEES
PAGE TWO

Township 2 South Range 5 East, Salt Lake Base and Meridian:

- Section 2: W1/2 (Containing 321.72 acres, more or less)
- Section 3: All (two tracts) (Containing 663.60 acres, more or less)
- Section 4: All (Containing 648.25 acres, more or less)
- Section 5: NE1/4; NW1/4; Lots 5, 6, 7 and 8
(Containing 486.24 acres, more or less)
- Section 8: Lots 1, 2, 3, 4, 5, 6, 7, and 8
(Containing 330.28 acres, more or less)
- Section 9: NE1/4; NW1/4; NE1/4SW1/4
(Containing 360 acres, more or less)
- Section 10: All (Containing 640 acres, more or less)
- Section 11: All (Containing 640 acres, more or less)
- Section 12: S1/2 (Containing 320 acres more or less)
- Section 13: S1/2NE1/4; NW1/4; N1/2S1/2; SE1/4SW1/4; SW1/4SE1/4 (less 41.02
acres UWD 535); N1/2NE1/4; SW1/4SW1/4
(Containing 558.98 acres, more or less)
- Section 14: All (Containing 640 acres, more or less)
- (Containing, in the aggregate, 13,441.32 acres, more or less)

TOGETHER WITH all of Grantor's right, title and interest in and to all water and water rights, ditch and ditch rights, and reservoir and reservoir rights appurtenant to said real property.

EXPRESSLY EXCEPTING AND RESERVING, HOWEVER, TO GRANTOR, an undivided one-half (1/2) interest in and to all coal, oil, gas and all other metallic and non-metallic minerals, of every kind or character, whether similar or dissimilar to said named minerals, and whether now known or hereafter discovered, including, but without limitation, all building stone, sand, gravel and geothermal rights, now owned by Grantor, whether mined or extracted by surface or underground mining or extraction methods, in, upon or underlying all of said real property, together with the full right of ingress and egress, to prospect for, mine and remove the same.

THE MINERAL INTEREST conveyed to Grantees hereunder, if any, is expressly conveyed by Grantor without warranties of title of any kind.

EXPRESSLY SUBJECT TO THE FOLLOWING:

(a) The reservations, limitations and conditions of the underlying Patents covering said real property and the rights of any party or parties pursuant thereto;

BOOK 130 PAGE 684

(b) All grants, conditions, limitations and reservations, mineral or otherwise, if any, of record, and all other conditions, limitations and reservations of record, or arising by operation of law and the rights of any party, or parties, pursuant thereto;

(d) The rights of any party, or parties, under any oil, gas, mineral or other leases, if any, covering portion, or portions, of said real property;

(F) All provisions of the Farmland Assessment Act and Grantees shall assume and pay all rollback taxes levied, if any;

(h) The right of Porter Brothers Livestock, Inc., to transfer its grazing rights and privileges being supported by said real property to other lands owned and/or controlled by it, or as said Porter Brothers Livestock, Inc., may direct.

BOOK # 130 PAGE 685

EXHIBIT B

WHEN RECORDED MAIL TO: JOHN HUT, 3600 SOUTH 2740 EAST, SALT LAKE CITY, UTAH 84109

SPECIAL WARRANTY DEED

(CORPORATE FORM)

S-3691
T-55162

Exhibit B

UTAH TITLE AND ABSTRACT COMPANY, Trustee, a corporation organized and existing under the laws of the State of Utah, with its principal office at Salt Lake City, of County of Salt Lake, State of Utah, grantor, hereby CONVEYS AND WARRANTS against all claiming by, through or under it to

JOHN B. HUT and ANGELINA HUT, husband and wife, as joint tenants, with full rights of survivorship and not as tenants in common.

grantee

of Salt Lake City, County of Salt Lake, State of Utah
for the sum of TEN DOLLARS and other good and valuable considerations
the following described tract of land in Summit
State of Utah:

County,

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF

SUBJECT TO easements, restrictions and rights of way appearing of record or enforceable in law and equity.

SUBJECT to the right of Summit County to reassess the tax assessment on said property in accordance with Secs. 59-5-86 105 UCA 1953 as disclosed by certain Annual Application for Assessment and Taxation of Agricultural Land, 1969 Farmland Assessment Act.

LIMITED TO SURFACE RIGHTS ONLY.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the grantor at a lawful meeting duly held and attended by a quorum.

In witness whereof, the grantor has caused its corporate name to be hereunto affixed by its duly authorized officers this 1st day of April, A.D., 1979

UTAH TITLE AND ABSTRACT COMPANY, Trustee

Entry No.	155078	Book	M.131
RECORDED	4-17-79	at	2:52 PM Page 560-1
REQUEST OF	UTAH TITLE & ABSTRACT		
FEE	WANDA Y. SPRIGGS, SUMMIT CO. RECORDER		
\$	6.00	By	Wanda Y. Spriggs
INDEXED	ABSTRACT		

By *Edward B. Rogers*
Edward B. Rogers, President

STATE OF UTAH,

County of Salt Lake

On the 1st day of April, 1979, personally appeared before me
EDWARD B. ROGERS, who being by me duly sworn, did say that he
is the PRESIDENT of UTAH TITLE AND ABSTRACT COMPANY,

Trustee, a corporation, and that said instrument was signed in behalf of said corporation by authority of its by-laws (or by a resolution of its board of directors) and said EDWARD B.

ROGERS

acknowledges to me that said corporation

Wanda Y. Spriggs
Notary Public

Residing at:
Salt Lake City, Utah

My Commission Expires:
January 26, 1982

Utah Title and Abstract Company

Salt Lake 395 744

Phone 582-3511

Denver 296 5175

Summit 365 5679

Webster 399-3373

BOOK 131 PAGE 560

EXHIBIT "A"

Said property being located in Sections 19 and 20, Township 1 South, Range 5 East, SIM.

Lot 26, more particularly described as follows:

BEGINNING at a point that is on the North Right-of-Way line of State Highway 196, said point of beginning being South 0°06'48" East along the West Section line (not surveyed) of Section 29, 219.745 feet to a point on said Right-of-Way line and North 58°51' East along said Right-of-Way line 670.250 feet from the Southeast Corner of Section 19, Township 1 South, Range 5 East, Salt Lake Base & Meridian, Summit County, Utah. (said Southeast Corner bearing North 89°23'18" East from Southwest Corner and being the basis of bearing for this description).

Thence: North 58°51' East along said Right-of-Way 1005.978 feet;
 Thence: North 35° West 1745.340 feet;
 Thence: South 53° West 1178.152 feet;
 Thence: South 50°30' East 475.00 feet;
 Thence: South 43° East 620.00 feet;
 Thence: South 31° East 566.366 feet, to the point of beginning, together with and subject to a 50 foot right-of-way designed as right-of-way "E".

RIGHT-OF-WAY "E"

A 50 foot Right-of-Way, 25 feet on each side of its center line, described as follows:

BEGINNING at a point on the Northerly Right-of-Way line of State Highway 196, said point being South 0°06'48" East along the section line 219.745 feet and North 58°51' East 670.250 feet from the Southwest Corner of Section 20, Township 1 South, Range 5 East, Salt Lake Base & Meridian, which corner is North 89°23'18" East (used as the basis of bearing in this description). From the Northwest Corner of Section 30, Township 1 South, Range 5 East, Salt Lake Base & Meridian thence North 31°00' West 566.366 feet; thence North 43°00' West 620.00 feet; thence North 50°30' West 475.00 feet; thence North 86°18'55" West 588.992 feet; thence South 85°30' West 84.652 feet; thence North 3°22'59" East 1016.772 feet; thence North 7°29'45" East 574.913 feet; thence North 17°54'16" East 341.541 feet; thence North 44°12'55" East 258.118 feet; thence North 72°53'50" East 204.022 feet; thence South 84°35'46" East 371.652 feet; thence North 72°08'07" East 635.649 feet; thence North 54°41'42" East 1574.587 feet; thence North 34°50'27" East 621.390 feet; thence North 55°36'04" East 672.625 feet; thence North 73°21'40" East 908.020 feet; thence North 56°21'44" East 1239.163 feet; thence North 42°18'59" East 906.091 feet; thence North 74°30' East 356.746 feet to its point of intersection with the center line of another 50-foot right-of-way running North-South.

Limited To Surface Rights Only

Subject to the Covenants and Conditions as set forth in that certain Warranty Deed dated April 3rd, 1978, by and between TRACY LAND AND LIVESTOCK COMPANY, Grantor, and UTAH TITLE AND ABSTRACT COMPANY, TRUSTEE, Grantee, recorded April 5th, 1979, in Book N 130, at Pages 682-685, as Entry No. 154706, of Official Records of Summit County, Utah, and recorded April 6th, 1979, in Book 124, at Pages 589-592, as Entry No. 116016, of Official Records of Wasatch County, Utah.

BOOK N 131 PAGE 561

EXHIBIT C

Exhibit C

No.
FILED

JAN 13 1997

Third District Court
By
Deputy Clerk, Summit County

Robert P. Hill (1492)
John A. Adams (0023)
RAY, QUINNEY & NEBEKER
Attorneys for Plaintiff
79 South Main Street, Suite 400
P.O. Box 45385
Salt Lake City, Utah 84145-0385
Telephone: (801) 532-1500

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SUMMIT COUNTY, UTAH**

---ooOoo---

WRIGHT/GARFF RESOURCES, L.L.C.,
a Utah limited liability company,

Plaintiff,

v.

THOMAS AMERICAN STONE AND
BUILDING, INC., a Utah corporation,
dba AMERICAN STONE COMPANY,
LON A. THOMAS, an individual, and
UNKNOWN PERSONS designated as
JOHN DOE NO. 1 through 10,

Defendants.

**ORDER GRANTING MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Civil No. 94-03-00111

---ooOoo---

On October 28, 1996, at 4:30 p.m., Plaintiff's Motion for Partial Summary Judgment regarding ownership of a building stone deposit in Summit County, Utah came on for hearing before the Honorable Pat Brian with Robert P. Hill and John A. Adams of Ray, Quinney & Nebeker appearing on behalf of Plaintiff Wright/Garff Resources, L.L.C. ("Wright/Garff") and Russell C. Fericks and Mark L. McCarty of Richards, Brandt, Miller & Nelson

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appearing on behalf of Defendants Thomas American Stone and Building, Inc. ("American Stone"), Lon A. Thomas and Beverly Thomas.

Based upon the memoranda and affidavits submitted by Wright/Garff, the argument of counsel and good cause therefor appearing, the Court enters its Findings of Fact, Conclusions of Law and Order as follows:

FINDINGS OF FACT

A. This action involves conflicting claims to ownership of building stone deposits in and under a parcel of real property located in Summit County, Utah, more particularly described as follows ("Lot 38"):

BEGINNING at a point that is due North 2723.833 feet and due East 1304.828 feet from the Southeast corner of Section 19, Township 1 South, Range 5 East Salt Lake Base & Meridian, (said Southeast corner bearing North 89° 23' 18" East from Southwest corner and being the basis of bearing for this description); thence North 58°30'12" East 1244.381 feet; thence South 34° East 847.614 feet to a point on the South line of the Northeast 1/4 of Section 20, Township 1 South, Range 5 East, Salt Lake Base & Meridian; thence South 89°38'12" West along said South line 208.53 feet to the center of section of said Section 20; thence South 0°12'28" East along the West line of the Southeast 1/4 of said Section 20 1326.604 feet to the Southwest corner of the North 1/2 of Southeast 1/4 of said Section 20; thence North 89°38'12" East along the South line of said North 1/2 of Southeast 1/4 65.907 feet to a point on the arc of a 2914.790 foot radius curve, the center of which bears South 19°33'40" East; thence Southwesterly along the arc of said curve to the left through a central angle of 11°35'20", a distance of 589.554 feet; thence North 27°55'59" West 1847.338 feet to the point of BEGINNING.

B. By Warranty Deed dated April 3, 1978 and recorded April 5, 1979 at Book M130, page 682, in the records of the Summit County Recorder (the "Tracy Deed"), Tracy Land and Livestock Company conveyed Lot 38 and other lands in Summit and Wasatch Counties to Utah Title and Abstract Company, as trustee ("Utah Title"):

C. The Tracy Deed included the following express reservation:

EXPRESSLY EXCEPTING AND RESERVING, HOWEVER TO GRANTOR, an undivided one-half (1/2) interest in and to all coal, oil, gas and all other metallic and non-metallic minerals, of every kind or character, whether similar or dissimilar to said named minerals, and whether now known or hereafter discovered, including, but without limitation, all building stone, sand, gravel and geothermal rights, now owned by Grantor, whether mined or extracted by surface or underground mining or extraction methods, in, upon or underlying all of said real property, together with the full right of ingress and egress, to prospect for, mine and remove the same.

D. By Special Warranty Deed dated April 1, 1979 and recorded April 19, 1979 at Book M131, page 634, in the records of the Summit County Recorder (the "Utah Title Deed"), Utah Title, as trustee, conveyed the "surface rights only" in Lot 38 to Dee Henshaw.

E. The building stone underlying Lot 38 is not on the surface or immediately below to the surface.

F. The building stone underlying Lot 38 is different in character from, and has a value separate from, the soil itself and vegetation growing on the surface.

G. American Stone has been operating a building stone quarry on Lot 38, and has been mining and removing building stone from Lot 38.

H. American Stone's quarrying operations on Lot 38 have penetrated beneath the surface of the land.

CONCLUSIONS OF LAW

1. The undivided mineral interest in Lot 38 which was reserved to Tracy Land and Livestock Company in the Tracy Deed has passed from Tracy Land and Livestock Company to Wright/Garff (36.761111%) and to others (13.238889%) by mesne conveyances.

2. The subsurface rights and interests in and under Lot 38, which were retained by Utah Title, as trustee, in the Utah Title Deed, have passed from Utah Title, as trustee, to Wright/Garff by mesne conveyances.

3. The surface rights in the Subject Lands, which were originally conveyed by Utah Title, as trustee, to Dee Henshaw in the Utah Title Deed, have passed from Mr. Henshaw to American Stone by mesne conveyances.

4. The mineral reservation in Tracy Deed and the limited grant of surface rights only in Utah Title Deed are clear and unambiguous.

5. Under the plain language of the Tracy Deed, one-half of all building stone and other minerals, whether mined by surface or underground mining methods, was reserved to the grantor, together with the right of ingress and egress to explore and mine for and remove the same.

6. Under the plain language of the Utah Title Deed, only surface rights in Lot 38 were conveyed to Dee Henshaw. All mineral and subsurface interests not previously excepted or reserved were retained by Utah Title, as trustee.

7. The "surface rights" on Lot 38 include the surface soil and other materials lying on the immediate natural surface of the land, vegetation growing on the surface and the right to construct structures on the surface and to use the surface for surface uses, such as farming, ranching, residential, commercial, industrial and recreational purposes, together with the right to penetrate the surface incidentally to the exercise of surface rights (e.g., for foundations, footings, basements, water lines or sewer lines).

8. American Stone is the owner of the surface rights in Lot 38.

9. The building stone lying in and under Lot 38 is a mineral.

10. Wright/Garff is the owner of an undivided 86.761111% interest in and to all building stone and other minerals in and under Lot 38, together with the right of ingress, egress and reasonable surface use to mine for and remove the same, including without limitation the right to utilize surface or open pit mining and/or quarrying methods.

ORDER

IT IS HEREBY ORDERED that title to an undivided 86.761111% interest in and to all building stone and other minerals in and under Lot 38, together with the right of ingress, egress and reasonable surface use to prospect for, mine and remove the same, including without limitation the right to utilize surface or open pit mining and/or quarrying methods, be and hereby is quieted in Wright/Garff.

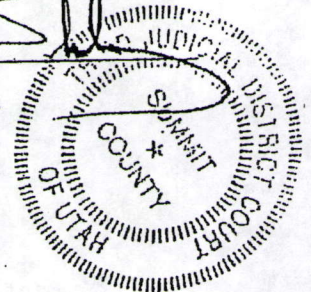
00474230 Bk01030 Pg00588

January, 1997
DATED this 13 day of November, 1996.

BY THE COURT

William B. Blum

Pat Brian
District Court Judge



APPROVED AS TO FORM:
RICHARDS, BRANDT, MILLER & NELSON

Russell C. Ferriks

Russell C. Ferriks
Mark L. McCarty
Attorneys for Defendants Thomas
American Stone and Building, Inc.,
Lon A. Thomas and Beverly Thomas

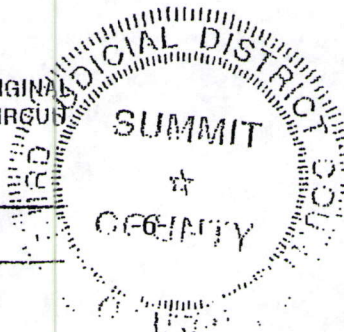
200897

00474230 Bk01030 Pg00589

I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL
DOCUMENT ON FILE IN THE THIRD DISTRICT/CIRCUIT
COURT, SUMMIT COUNTY, STATE OF UTAH.

DATE: Feb. 21, 1997

Joye D. Ovard



BOOK W W PAGE 775

Robert P. Hill (1492)
John A. Adams (0023)
RAY, QUINNEY & NEBEKER
Attorneys for Plaintiff
79 South Main Street, Suite 400
P.O. Box 45385
Salt Lake City, Utah 84145-0385
Telephone: (801) 532-1500

No. _____

FILED

JAN 13 1997

15:24

Third District Court

Deputy Clerk, Summit County

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SUMMIT COUNTY, UTAH

---ooOoo---

WRIGHT/GARFF RESOURCES, L.L.C., :
a Utah limited liability company, :

Plaintiff, :

v. :

THOMAS AMERICAN STONE AND :
BUILDING, INC., a Utah corporation, dba :
AMERICAN STONE COMPANY, LON A. :
THOMAS, an individual, and UNKNOWN :
PERSONS designated as JOHN DOE NO. 1 :
through 10, :

Defendants. :

JUDGMENT QUIETING TITLE AND
DISMISSING OTHER CLAIMS WITH
PREJUDICE

Civil No. 94-03-00111

---ooOoo---

Pursuant to the Court's Order Granting Motion for Partial Summary Judgment and good
cause therefor appearing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the Findings of Fact and Conclusions of Law more fully set out in the Court's
Order Granting Motion for Partial Summary Judgment in this matter are hereby incorporated in
this Judgment by reference; and

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2. That title is hereby quieted in Wright/Garff Resources, L.L.C., a Utah limited liability company, in and to an undivided 86.761111% interest in and to all building stone and other minerals and 100% of all other subsurface materials and rights in and under the following described real property in Summit County, Utah, together with the right of ingress, egress and reasonable surface use to prospect for, mine and remove the same, including without limitation the right to utilize surface or open pit mining and/or quarrying methods;


BEGINNING at a point that is due North 2723.833 feet and due East 1304.828 feet from the Southeast corner of Section 19, Township 1 South, Range 5 East Salt Lake Base & Meridian, (said Southeast corner bearing North 89° 23' 18" East from Southwest corner and being the basis of bearing for this description); thence North 58°30'12" East 1244.381 feet; thence South 34° East 847.614 feet to a point on the South line of the Northeast 1/4 of Section 20, Township 1 South, Range 5 East, Salt Lake Base & Meridian; thence South 89°38'12" West along said South line 208.53 feet to the center of section of said Section 20; thence South 0°12'28" East along the West line of the Southeast 1/4 of said Section 20 1326.604 feet to the Southwest corner of the North 1/2 of Southeast 1/4 of said Section 20; thence North 89°38'12" East along the South line of said North 1/2 of Southeast 1/4 65.907 feet to a point on the arc of a 2914.790 foot radius curve, the center of which bears South 19°33'40" East; thence Southwesterly along the arc of said curve to the left through a central angle of 11°35'20", a distance of 589.554 feet; thence North 27°55'59" West 1847.338 feet to the point of BEGINNING. (Also sometimes referred to as "Lot 38".)

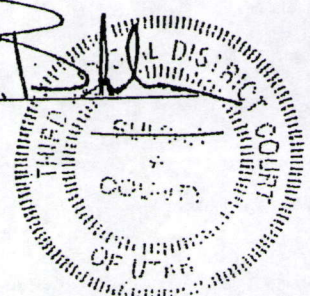
Pursuant to the Court's Order Distributing Trust Account, Dissolving Preliminary Injunction and Dismissing Other Claims with Prejudice and good cause therefor appearing, IT IS HEREBY FURTHER ORDERED that all other claims stated in the Amended Complaint and that all claims stated in the Counterclaim be, and hereby are, dismissed with prejudice and on

the merits, with each party bearing its own costs and attorneys' fees.

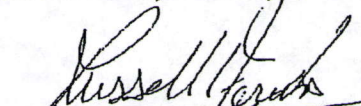
DATED this 13 day of ^{January} November, 1996.

BY THE COURT


Pat Brian
District Court Judge



APPROVED AS TO FORM:
RICHARDS, BRANDT, MILLER & NELSON

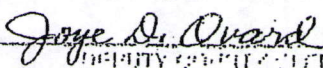

Russell C. Fericks
Mark L. McCarty
Attorneys for Defendants Thomas
American Stone and Building, Inc.,
Lon A. Thomas and Beverly Thomas

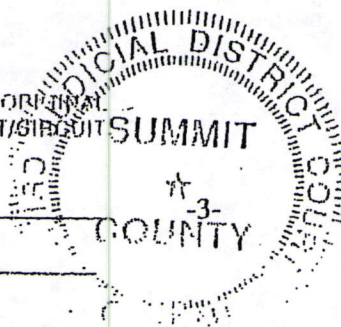
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I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL
DOCUMENT ON FILE IN THE THIRD DISTRICT CIRCUIT
COURT, SUMMIT COUNTY, STATE OF UTAH.

DATE: Feb. 21, 1997


JOYCE D. OVERD



BOOK W IN PAGE 781